

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

SANDRA TROHA and
BRIAN TROHA,

Plaintiffs,

Case No. 19-cv-549

v.

DEAN HEALTH PLAN, INC.,
WEA INSURANCE CORPORATION, and
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Involuntary Plaintiffs,

v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendant.

NOTICE OF REMOVAL

Defendant State Farm Mutual Automobile Insurance Company, by its attorneys Boardman & Clark LLP, by Amanda J. Kaiser, hereby removes Dane County Circuit Court Case No. 19-CV-1527, *Sandra Troha, et al. v. State Farm Mutual Automobile Insurance Company*, to the United States District Court for the Western District of Wisconsin pursuant to 28 U.S.C. §§ 1441 and 1446. Subject matter jurisdiction is present under 28 U.S.C. § 1332. In support of the notice of removal, defendant states as follows:

1. On June 4, 2019, plaintiffs Sandra Troha and Brian Troha commenced this action against State Farm Mutual Automobile Insurance Company by filing a summons and complaint in the State of Wisconsin, Circuit Court for Dane County, Case No. 19-CV-1527. The complaint

alleges claims for underinsured motorist coverage, loss of society and companionship, bad faith and breach of contract, interest pursuant to Wis. Stat. § 626.46, attorney's fees, and punitive damages. A copy of the complaint is attached as Exhibit A.

2. State Farm Mutual Automobile Insurance Company is incorporated under the laws of the State of Illinois and has its principal place of business in Bloomington, Illinois. State Farm Mutual Automobile Insurance Company is a citizen of the State of Illinois for purposes of federal court jurisdiction under 28 U.S.C. § 1332.

3. Plaintiffs Sandra and Brian Troha are citizens of the State of Wisconsin.

4. Dean Health Plan, Inc., WEA Insurance Corporation, and State Farm Mutual Automobile Insurance Company, are joined as involuntary plaintiffs, as a result of their payment of medical expenses on behalf of plaintiff Sandra Troha. *See Exhibit A, Complaint at ¶¶2-4.* Dean Health Plan has filed a claim and cross claim, a copy of which is attached as Exhibit B. WEA Insurance Corporation has apparently requested a voluntary dismissal, which plaintiffs' counsel has requested from the Dane County Circuit Court. Plaintiffs' counsel's letter and proposed dismissal order are attached as Exhibit C.

5. Regardless of the citizenship of the subrogated parties, a subrogated insurer is considered a nominal party whose citizenship does not affect diversity. *See Werner v. Pittway Corp.*, 90 F. Supp. 2d 1018, 1020 (W.D. Wis. 2000). Furthermore, nominal parties need not join in removal. *See Shaw v. Dow Brands, Inc.*, 994 F.2d 364, 369 (7th Cir. 1993). Therefore, complete diversity exists for purposes of removal.

6. Although the state court complaint does not allege an amount in controversy, defendant believes in good faith that the amount in controversy in this action exceeds \$75,000.00, exclusive of interest and costs.

7. The summons and complaint were served upon State Farm Mutual Automobile Insurance Company on June 5, 2019, and therefore this notice of removal is timely.

8. The U.S. District Court for the Western District of Wisconsin has original jurisdiction over this case pursuant to 28 U.S.C. § 1332(a), which may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441, because this is a civil action between citizens of different states in which the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

9. Written notice and a copy of this notice of removal will be filed with the Clerk of Court for the Circuit Court for Dane County, Wisconsin, and served on plaintiffs' counsel and on counsel for Dean Health Plan, Inc. as required by 28 U.S.C. § 1446(d).

WHEREFORE, defendant State Farm Mutual Automobile Insurance Company requests that this action be removed to this Court for all further proceedings.

DEFENDANT HEREBY DEMANDS A TRIAL BY JURY.

DATED this 8th day of July, 2019.

BOARDMAN & CLARK LLP

By

Electronically signed by Amanda J. Kaiser
Amanda J. Kaiser, #1006584
Attorneys for Defendant State Farm Mutual
1 South Pinckney Street
P.O. Box 927
Madison, Wisconsin 53701-0927
(608) 283-1750
akaiser@boardmanclark.com